



SEALED

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Attorneys for the United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN
ORDER PURSUANT TO 18 U.S.C. §
2703(d)

Case No. 2:20-mj-0014-DJA

(Under Seal)

**APPLICATION FOR ORDER COMMANDING PROVIDER
NOT TO NOTIFY ANY PERSON OF THE EXISTENCE OF COURT ORDER**

The Government requests that the Court order Microsoft Corporation (the Provider) to not notify any person (including the subscribers of the accounts listed in the order) of the existence of the attached order until 180 days from the date of this order, or until further ordered by this Court, whichever occurs first.

The Provider is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703(d), the Government obtained the attached order on January 10, 2020, which required the Providers to disclose certain records and information to the

1 Government regarding the subscribers of their service. (*See* Attachment A.) In the same order,
2 pursuant to 18 U.S.C. § 2705(b), this Court also directed the Provider not to notify any person
3 of the existence of the court order for a period of 120 days. (*Id.*) On May 4, 2020, the Court
4 ordered an extension of the non-disclosure order for another 120 days. (*Id.*) On August 20,
5 2020, the Court ordered a further extension of the non-disclosure order for 180 days. (*Id.*). On
6 February 11, 2021, the Court ordered a further extension of the non-disclosure order for 180
7 days. (*Id.*). On August 2, 2021, the Court ordered a further extension of the non-disclosure
8 order for 180 days. (*Id.*). That order is set to expire on January 29, 2022.

9 This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a
10 provider of electronic communications service or remote computing service to whom a
11 warrant, subpoena, or court order is directed, for such period as the court deems appropriate,
12 not to notify any other person of the existence of the warrant, subpoena, or court order.”

13 **FACTUAL BACKGROUND**

14 The attached order was issued to obtain records relevant to an ongoing criminal
15 investigation of possible violations of 18 U.S.C. §§ 1347 (Health Care Fraud). The targets of
16 the investigation have billed the Department of Veterans Affairs for several million dollars’
17 worth of supplies that, based on the investigation, it is believed were not provided to the
18 beneficiary. The records obtained have helped the government identify targets of the
19 investigation and identify additional sources of records relevant to the investigation.

20 **ANALYSIS**

21 A nondisclosure order is appropriate here because the attached order relates to an
22 ongoing criminal investigation that is neither public nor known to the target of the
23 investigation, and its disclosure would very likely alert the target or unknown coconspirators
24 to the ongoing investigation of the target’s continuing criminal activity. Subsequent to

obtaining the records sought through the attached order, the government also obtained a search warrant for the subject account on March 2, 2020. (*See* 2:20-mj-00151-EJY). Along with the search warrant, the Court signed an order precluding the Provider from providing notice to the subscriber of the account for a period of 180 days. The Government is also seeking a renewal of the non-disclosure order in that matter for a period of 180 days. The targets remain unaware of the investigation. Renewal of the attached order for a period of 180 days is appropriate here in order not to disclose the ongoing investigation to the target of the investigation.

Some of the evidence in this investigation is stored electronically. Although the evidence sought from the Provider here may not be susceptible to destruction directly by the target, other evidence that will most likely come to light during the course of the investigation, such as evidence stored electronically in the target's email accounts, social media accounts, home and work computers, and in other locations, may be destroyed by the targets if they were to learn via notification of this order that they are targets of an ongoing federal criminal investigation. If alerted to the investigation, the targets under investigation and any unknown coconspirators could destroy that evidence and seriously jeopardize the efficacy of the investigation. Based on the facts above, there is reason to believe that notification of the existence of the attached order would seriously jeopardize the investigation, including by giving targets an opportunity to flee, destroy or tamper with evidence, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

CONCLUSION

For the reasons above, the Government respectfully requests that the Court grant the attached order directing the Provider not to disclose the existence or content of the attached order for an additional 180 days, or until further order of the Court, except that the Provider

1 may disclose the attached subpoenas to an attorney for the Provider for the purpose of
2 receiving legal advice.

3 The Government further requests that the Court order that this Application and any
4 resulting orders be sealed until further order of the Court. As explained above, these
5 documents discuss an ongoing criminal investigation that is neither public nor known to all
6 of the target of the investigation. Accordingly, there is good cause to seal these documents
7 because their premature disclosure may seriously jeopardize that investigation.

8 DATED this 26th day of January, 2022.

9 Respectfully submitted,
10 CHRISTOPHER CHOIU
Acting United States Attorney

11 /s/ Jessica Oliva
12 JESSICA OLIVA
13 Assistant United States Attorney
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1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 IN THE MATTER OF THE
4 APPLICATION OF THE UNITED
5 STATES OF AMERICA FOR AN ORDER
6 PURSUANT TO 18 U.S.C. § 2703(d)

Case No. 2:20-mj-0014-DJA

ORDER

(Under Seal)

7 The United States has submitted an application pursuant to 18 U.S.C. § 2705(b),
8 requesting that the Court issue an Order commanding Microsoft Corporation (the Provider),
9 an electronic communication service provider and/or a remote computing service, not to
10 notify any person (including the subscribers and customers of the account listed in the
11 Order) of the existence of the attached Order for a period of 180 days. Previously, on
12 January 10, 2020, pursuant to 18 U.S.C. § 2705(b), in the attached order the Court directed
13 the Provider not to notify any person of the existence of the Order for a period of 120 days.
14 The Court's Order was renewed on or about May 4, 2020, for an additional 120 days, on
15 August 20, 2020 for an additional 180 days, on February 11, 2021 for an additional 180
16 days, and on August 2, 2021 for an additional 180 days.


17 The Court determines that there is reason to believe that notification of the existence
18 of this Order will seriously jeopardize the ongoing investigation, including by giving targets
19 an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence,
20 change patterns of behavior, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

21 IT IS ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not
22 disclose the existence of the application of the United States, or the existence of this Order
23 of the Court, to the subscriber(s) of the account listed in Attachment A to the order or to any
24 other person for an additional 180 days from the date of this Order, unless and until

1 otherwise authorized to do so by the Court, except that Microsoft Corporation may disclose
2 this Order to its attorney for the purpose of receiving legal advice.

3 IT IS FURTHER ORDERED that the application and this Order are sealed until
4 otherwise ordered by the Court.

5 This 27th day of January, 2022.



HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge

Attachment A



SEALED

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN
ORDER PURSUANT TO 18 U.S.C. §
2703(d)

Case No. 2:20-mj-0014-DJA

(Under Seal)

**APPLICATION FOR ORDER COMMANDING PROVIDER
NOT TO NOTIFY ANY PERSON OF THE EXISTENCE OF COURT ORDER**

The Government requests that the Court order Microsoft Corporation (the Provider) to not notify any person (including the subscribers of the accounts listed in the order) of the existence of the attached order until 180 days from the date of this order, or until further ordered by this Court, whichever occurs first.

The Provider is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703(d), the Government obtained the attached order on January 10, 2020, which required the Providers to disclose certain records and information to the

1 Government regarding the subscribers of their service. (*See* Attachment A.) In the same order,
2 pursuant to 18 U.S.C. § 2705(b), this Court also directed the Provider not to notify any person
3 of the existence of the court order for a period of 120 days. (*Id.*) On May 4, 2020, the Court
4 ordered an extension of the non-disclosure order for another 120 days. (*Id.*) On August 20,
5 2020, the Court ordered a further extension of the non-disclosure order for 180 days. (*Id.*). On
6 February 11, 2021, the Court ordered a further extension of the non-disclosure order for 180
7 days. (*Id.*). That order is set to expire on August 10, 2021.

8 This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a
9 provider of electronic communications service or remote computing service to whom a
10 warrant, subpoena, or court order is directed, for such period as the court deems appropriate,
11 not to notify any other person of the existence of the warrant, subpoena, or court order.”

12 **FACTUAL BACKGROUND**

13 The attached order was issued to obtain records relevant to an ongoing criminal
14 investigation of possible violations of 18 U.S.C. §§ 1347 (Health Care Fraud). The targets of
15 the investigation have billed the Department of Veterans Affairs for several million dollars’
16 worth of supplies that, based on the investigation, it is believed were not provided to the
17 beneficiary. The records obtained have helped the government identify targets of the
18 investigation and identify additional sources of records relevant to the investigation.

19 **ANALYSIS**

20 A nondisclosure order is appropriate here because the attached order relates to an
21 ongoing criminal investigation that is neither public nor known to the target of the
22 investigation, and its disclosure would very likely alert the target or unknown coconspirators
23 to the ongoing investigation of the target’s continuing criminal activity. Subsequent to
24 obtaining the records sought through the attached order, the government also obtained a

1 search warrant for the subject account on March 2, 2020. (*See* 2:20-mj-00151-EJY). Along
2 with the search warrant, the Court signed an order precluding the Provider from providing
3 notice to the subscriber of the account for a period of 180 days. The Government is also
4 seeking a renewal of the non-disclosure order in that matter for a period of 180 days. The
5 targets remain unaware of the investigation. Renewal of the attached order for a period of 180
6 days is appropriate here in order not to disclose the ongoing investigation to the target of the
7 investigation.

8 Some of the evidence in this investigation is stored electronically. Although the
9 evidence sought from the Provider here may not be susceptible to destruction directly by the
10 target, other evidence that will most likely come to light during the course of the investigation,
11 such as evidence stored electronically in the target's email accounts, social media accounts,
12 home and work computers, and in other locations, may be destroyed by the targets if they
13 were to learn via notification of this order that they are targets of an ongoing federal criminal
14 investigation. If alerted to the investigation, the targets under investigation and any unknown
15 coconspirators could destroy that evidence and seriously jeopardize the efficacy of the
16 investigation. Based on the facts above, there is reason to believe that notification of the
17 existence of the attached order would seriously jeopardize the investigation, including by
18 giving targets an opportunity to flee, destroy or tamper with evidence, or notify confederates.
19 See 18 U.S.C. § 2705(b)(2), (3), (5).

20 CONCLUSION

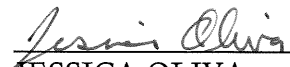
21 For the reasons above, the Government respectfully requests that the Court grant the
22 attached order directing the Provider not to disclose the existence or content of the attached
23 order for an additional 180 days, or until further order of the Court, except that the Provider
24

1 may disclose the attached subpoenas to an attorney for the Provider for the purpose of
2 receiving legal advice.

3 The Government further requests that the Court order that this Application and any
4 resulting orders be sealed until further order of the Court. As explained above, these
5 documents discuss an ongoing criminal investigation that is neither public nor known to all
6 of the target of the investigation. Accordingly, there is good cause to seal these documents
7 because their premature disclosure may seriously jeopardize that investigation.

8 DATED this 2nd day of August, 2021.

9 Respectfully submitted,
10 CHRISTOPHER CHOIU
Acting United States Attorney

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12 JESSICA OLIVA
13 Assistant United States Attorney
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2703(d)

Case No. 2:20-mj-0014-DJA

ORDER

(Under Seal)

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Microsoft Corporation (the Provider), an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account listed in the Order) of the existence of the attached Order for a period of 180 days. Previously, on January 10, 2020, pursuant to 18 U.S.C. § 2705(b), in the attached order the Court directed the Provider not to notify any person of the existence of the Order for a period of 120 days. The Court's Order was renewed on or about May 4, 2020, for an additional 120 days, on August 20, 2020 for an additional 180 days, and on February 11, 2021 for an additional 180 days.

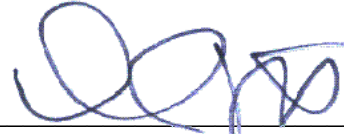
The Court determines that there is reason to believe that notification of the existence of this Order will seriously jeopardize the ongoing investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

IT IS ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not disclose the existence of the application of the United States, or the existence of this Order of the Court, to the subscriber(s) of the account listed in Attachment A to the order or to any other person for an additional 180 days from the date of this Order, unless and until

1 otherwise authorized to do so by the Court, except that Microsoft Corporation may disclose
2 this Order to its attorney for the purpose of receiving legal advice.

3 IT IS FURTHER ORDERED that the application and this Order are sealed until
4 otherwise ordered by the Court.

5 This 3rd day of August, 2021.



HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge

Attachment A



SEALED

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
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Case No. 2:20-mj-0014-DJA

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**APPLICATION FOR ORDER COMMANDING PROVIDER
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The Government requests that the Court order Microsoft Corporation (the Provider) to not notify any person (including the subscribers of the accounts listed in the order) of the existence of the attached order until 180 days from the date of this order, or until further ordered by this Court, whichever occurs first.

The Provider is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703(d), the Government obtained the attached order on January 10,

2020, which required the Providers to disclose certain records and information to the Government regarding the subscribers of their service. (*See* Attachment A.) In the same order, pursuant to 18 U.S.C. § 2705(b), this Court also directed the Provider not to notify any person of the existence of the court order for a period of 120 days. (*Id.*) On May 4, 2020, the Court ordered an extension of the non-disclosure order for another 120 days. (*Id.*) On August 20, 2020, the Court ordered a further extension of the non-disclosure order for 180 days. (*Id.*) That order is set to expire on February 16, 2021.

This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.”

FACTUAL BACKGROUND

The attached order was issued to obtain records relevant to an ongoing criminal investigation of possible violations of 18 U.S.C. §§ 1347 (Health Care Fraud). The targets of the investigation have billed the Department of Veterans Affairs for several million dollars’ worth of supplies that, based on the investigation, it is believed were not provided to the beneficiary. The records obtained have helped the government identify targets of the investigation and identify additional sources of records relevant to the investigation.

ANALYSIS

A nondisclosure order is appropriate here because the attached order relates to an ongoing criminal investigation that is neither public nor known to the target of the investigation, and its disclosure would very likely alert the target or unknown coconspirators to the ongoing investigation of the target’s continuing criminal activity. Subsequent to obtaining the records sought through the attached order, the government also obtained a

1 search warrant for the subject account on March 2, 2020. (*See* 2:20-mj-00151-EJY). Along
2 with the search warrant, the Court signed an order precluding the Provider from providing
3 notice to the subscriber of the account for a period of 180 days. The Government is also
4 seeking a renewal of the non-disclosure order in that matter for a period of 180 days. The
5 targets remain unaware of the investigation. Renewal of the attached order for a period of 180
6 days is appropriate here in order not to disclose the ongoing investigation to the target of the
7 investigation.

8 Some of the evidence in this investigation is stored electronically. Although the
9 evidence sought from the Provider here may not be susceptible to destruction directly by the
10 target, other evidence that will most likely come to light during the course of the investigation,
11 such as evidence stored electronically in the target's email accounts, social media accounts,
12 home and work computers, and in other locations, may be destroyed by the targets if they
13 were to learn via notification of this order that they are targets of an ongoing federal criminal
14 investigation. If alerted to the investigation, the targets under investigation and any unknown
15 coconspirators could destroy that evidence and seriously jeopardize the efficacy of the
16 investigation. Based on the facts above, there is reason to believe that notification of the
17 existence of the attached order would seriously jeopardize the investigation, including by
18 giving targets an opportunity to flee, destroy or tamper with evidence, or notify confederates.
19 See 18 U.S.C. § 2705(b)(2), (3), (5).

20 **CONCLUSION**


21 For the reasons above, the Government respectfully requests that the Court grant the
22 attached order directing the Provider not to disclose the existence or content of the attached
23 order for an additional 180 days, or until further order of the Court, except that the Provider
24

1 may disclose the attached subpoenas to an attorney for the Provider for the purpose of
2 receiving legal advice.

3 The Government further requests that the Court order that this Application and any
4 resulting orders be sealed until further order of the Court. As explained above, these
5 documents discuss an ongoing criminal investigation that is neither public nor known to all
6 of the target of the investigation. Accordingly, there is good cause to seal these documents
7 because their premature disclosure may seriously jeopardize that investigation.

8 DATED this 10th day of February, 2021.

9 Respectfully submitted,
10 NICHOLAS A. TRUTANICH
United States Attorney

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12 JESSICA OLIVA
Assistant United States Attorney
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1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 IN THE MATTER OF THE
4 APPLICATION OF THE UNITED
5 STATES OF AMERICA FOR AN ORDER
6 PURSUANT TO 18 U.S.C. § 2703(d)

Case No. 2:20-mj-0014-DJA

ORDER

(Under Seal)

7
8 The United States has submitted an application pursuant to 18 U.S.C. § 2705(b),
9 requesting that the Court issue an Order commanding Microsoft Corporation (the Provider),
10 an electronic communication service provider and/or a remote computing service, not to
11 notify any person (including the subscribers and customers of the account listed in the Order
12 of the existence of the attached Order for a period of 180 days. Previously, on January 10,
13 2020, pursuant to 18 U.S.C. § 2705(b), in the attached order the Court directed the Provider
14 not to notify any person of the existence of the Order for a period of 120 days. The Court's
15 Order was renewed on or about May 4, 2020, for an additional 120 days, and on August 20,
16 2020 for an additional 180 days.

17 The Court determines that there is reason to believe that notification of the existence
18 of this Order will seriously jeopardize the ongoing investigation, including by giving targets
19 an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence,
20 change patterns of behavior, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

21 IT IS ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not
22 disclose the existence of the application of the United States, or the existence of this Order
23 of the Court, to the subscriber(s) of the account listed in Attachment A to the order or to any
24 other person for an additional 180 days from the date of this Order, unless and until

1 otherwise authorized to do so by the Court, except that Microsoft Corporation may disclose
2 this Order to its attorney for the purpose of receiving legal advice.

3 IT IS FURTHER ORDERED that the application and this Order are sealed until
4 otherwise ordered by the Court.

5 This 11th day of February, 2021.



A handwritten signature in blue ink, appearing to read "D. Albregts", written over a horizontal line.

HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge

Attachment A



SEALED

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Attorneys for the United States

FILED.

DATED: 4:57 pm, August 20, 2020

U.S. MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
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2020, which required the Providers to disclose certain records and information to the Government regarding the subscribers of their service. (*See* Attachment A.) In the same order, pursuant to 18 U.S.C. § 2705(b), this Court also directed the Provider not to notify any person of the existence of the court order for a period of 120 days. (*Id.*) On May 4, 2020, the Court ordered an extension of the non-disclosure order for another 120 days. (*Id.*)

This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.”

FACTUAL BACKGROUND

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ANALYSIS

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1 notice to the subscriber of the account for a period of 180 days. The Government is also
2 seeking a renewal of the non-disclosure order in that matter for a period of 180 days. The
3 targets remain unaware of the investigation. Renewal of the attached order for a period of 180
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7 evidence sought from the Provider here may not be susceptible to destruction directly by the
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9 such as evidence stored electronically in the target's email accounts, social media accounts,
10 home and work computers, and in other locations, may be destroyed by the targets if they
11 were to learn via notification of this order that they are targets of an ongoing federal criminal
12 investigation. If alerted to the investigation, the targets under investigation and any unknown
13 coconspirators could destroy that evidence and seriously jeopardize the efficacy of the
14 investigation. Based on the facts above, there is reason to believe that notification of the
15 existence of the attached order would seriously jeopardize the investigation, including by
16 giving targets an opportunity to flee, destroy or tamper with evidence, or notify confederates.
17 See 18 U.S.C. § 2705(b)(2), (3), (5).


18 CONCLUSION

19 For the reasons above, the Government respectfully requests that the Court grant the
20 attached order directing the Provider not to disclose the existence or content of the attached
21 order for an additional 180 days, or until further order of the Court, except that the Provider
22 may disclose the attached subpoenas to an attorney for the Provider for the purpose of
23 receiving legal advice.
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1 The Government further requests that the Court order that this Application and any
2 resulting orders be sealed until further order of the Court. As explained above, these
3 documents discuss an ongoing criminal investigation that is neither public nor known to all
4 of the target of the investigation. Accordingly, there is good cause to seal these documents
5 because their premature disclosure may seriously jeopardize that investigation.

6 DATED this 20th day of August, 2020.

7 Respectfully submitted,
8 NICHOLAS A. TRUTANICH
United States Attorney

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10 JAMIE MICKELSON
11 Assistant United States Attorney
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FILED.

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

DATED: 4:57 pm, August 20, 2020

U.S. MAGISTRATE JUDGE

3 IN THE MATTER OF THE
4 APPLICATION OF THE UNITED
5 STATES OF AMERICA FOR AN ORDER
6 PURSUANT TO 18 U.S.C. § 2703(d)

Case No. 2:20-mj-0014-DJA

ORDER**(Under Seal)**

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8 The United States has submitted an application pursuant to 18 U.S.C. § 2705(b),
9 requesting that the Court issue an Order commanding Microsoft Corporation (the Provider),
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11 notify any person (including the subscribers and customers of the account listed in the Order
12 of the existence of the attached Order for a period of 180 days. Previously, on January 10,
13 2020, pursuant to 18 U.S.C. § 2705(b), in the attached order the Court directed the Provider
14 not to notify any person of the existence of the Order for a period of 120 days. The Court's
15 Order was renewed on or about May 4, 2020, for an additional 120 days.

16 The Court determines that there is reason to believe that notification of the existence
17 of this Order will seriously jeopardize the ongoing investigation, including by giving targets
18 an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence,
19 change patterns of behavior, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

20 IT IS ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not
21 disclose the existence of the application of the United States, or the existence of this Order
22 of the Court, to the subscriber(s) of the account listed in Attachment A to the order or to any
23 other person for an additional 180 days from the date of this Order, unless and until
24

1 otherwise authorized to do so by the Court, except that Microsoft Corporation may disclose
2 this Order to its attorney for the purpose of receiving legal advice.

3 IT IS FURTHER ORDERED that the application and this Order are sealed until
4 otherwise ordered by the Court.

5 This 20th day of August, 2020.



HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge



SEALED

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Attorneys for the United States

FILED.

DATED: 12:23 pm, May 04, 2020

U.S. MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN
ORDER PURSUANT TO 18 U.S.C. §
2703(d)

Case No. 2:20-mj-0014-DJA

(Under Seal)

**APPLICATION FOR ORDER COMMANDING PROVIDER
NOT TO NOTIFY ANY PERSON OF THE EXISTENCE OF COURT ORDER**

The Government requests that the Court order Microsoft Corporation (the Provider) to not notify any person (including the subscribers of the accounts listed in the order) of the existence of the attached order until 120 days from the date of this order, or until further ordered by this Court, whichever occurs first.

The Provider is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703(d), the Government obtained the attached order on January 10,

2020, which required the Providers to disclose certain records and information to the Government regarding the subscribers of their service. In the same order, pursuant to 18 U.S.C. § 2705(b), this Court also directed the Provider not to notify any person of the existence of the court order for a period of 120 days.

This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.”

FACTUAL BACKGROUND

The attached order was issued to obtain records relevant to an ongoing criminal investigation of possible violations of 18 U.S.C. §§ 1347 (Health Care Fraud). The targets of the investigation have billed the Department of Veterans Affairs for several million dollars’ worth of supplies that, based on the investigation, it is believed were not provided to the beneficiary. The records obtained have helped the government identify targets of the investigation and additional methods of investigation.

ANALYSIS

A nondisclosure order is appropriate here because the attached order relates to an ongoing criminal investigation that is neither public nor known to the target of the investigation, and its disclosure would very likely alert the target or unknown coconspirators to the ongoing investigation of the target’s continuing criminal activity. Subsequent to obtaining the records sought through the attached order, the government also obtained a search warrant for the subject account on March 2, 2020. (*See* 2:20-mj-00151-EJY). Along with the search warrant, the Court signed an order precluding the Provider from providing notice to the subscriber of the account for a period of 180 days, thus, the targets remain

1 unaware of the investigation. Renewal of the attached order for a period of 120 days is
2 appropriate here in order not to disclose the ongoing investigation to the target of the
3 investigation.

4 Some of the evidence in this investigation is stored electronically. Although the
5 evidence sought from the Provider here may not be susceptible to destruction directly by the
6 target, other evidence that will most likely come to light during the course of the investigation,
7 such as evidence stored electronically in the target's email accounts, social media accounts,
8 home and work computers, and in other locations, may be destroyed by the targets if they
9 were to learn via notification of this order that they are targets of an ongoing federal criminal
10 investigation. If alerted to the investigation, the targets under investigation and any unknown
11 coconspirators could destroy that evidence and seriously jeopardize the efficacy of the
12 investigation. Based on the facts above, there is reason to believe that notification of the
13 existence of the attached order would seriously jeopardize the investigation, including by
14 giving targets an opportunity to flee, destroy or tamper with evidence, or notify confederates.
15 See 18 U.S.C. § 2705(b)(2), (3), (5).

16 CONCLUSION

17 For the reasons above, the Government respectfully requests that the Court grant the
18 attached order directing the Provider not to disclose the existence or content of the attached
19 order for an additional 120 days, or until further order of the Court, except that the Provider
20 may disclose the attached subpoenas to an attorney for the Provider for the purpose of
21 receiving legal advice.

22 The Government further requests that the Court order that this Application and any
23 resulting orders be sealed until further order of the Court. As explained above, these
24 documents discuss an ongoing criminal investigation that is neither public nor known to all

1 of the target of the investigation. Accordingly, there is good cause to seal these documents
2 because their premature disclosure may seriously jeopardize that investigation.

3 DATED this 4th day of May, 2020.

4 Respectfully submitted,
5 NICHOLAS A. TRUTANICH
6 United States Attorney

7  Digitally signed by JAMIE
MICKELSON
Date: 2020.05.04
11:01:34 -07'00'

8 JAMIE MICKELSON
9 Assistant United States Attorney
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FILED.
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA DATED: 12:24 pm, May 04, 2020
U.S. MAGISTRATE JUDGE

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2703(d)

Case No. 2:20-mj-0014-DJA

ORDER

(Under Seal)

The United States has submitted an application pursuant to 18 U.S.C. § 2705(b), requesting that the Court issue an Order commanding Microsoft Corporation (the Provider), an electronic communication service provider and/or a remote computing service, not to notify any person (including the subscribers and customers of the account listed in the Order of the existence of the attached Order for a period of 120 days. Previously, on January 10, 2020, pursuant to 18 U.S.C. § 2705(b), in the attached order the Court directed the Provider not to notify any person of the existence of the Order for a period of 120 days.

The Court determines that there is reason to believe that notification of the existence of this Order will seriously jeopardize the ongoing investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, or notify confederates. See 18 U.S.C. § 2705(b)(2), (3), (5).

IT IS ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not disclose the existence of the application of the United States, or the existence of this Order of the Court, to the subscriber(s) of the account listed in Attachment A to the order or to any other person for 120 days from the date of this Order, unless and until otherwise authorized to do so by the Court, except that Microsoft Corporation may disclose this Order to its attorney for the purpose of receiving legal advice.

1 IT IS FURTHER ORDERED that the application and this Order are sealed until
2 otherwise ordered by the Court.

3 This 4th day of May, 2020.



A handwritten signature in blue ink, appearing to read "D. Albregts", written over a horizontal line.

HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge



FILED

2020 JAN 10 PM 1:51

U.S. MAGISTRATE JUDGE

BY _____

SEALED

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Las Vegas, Nevada 89101
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FILED

2020 JAN 10 PM 1:51

U.S. MAGISTRATE JUDGE

BY _____

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Attorneys for the United States

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN
ORDER PURSUANT TO 18 U.S.C. §
2703(d)

Case No. 2:20-mj-00014-DJA

APPLICATION OF THE UNITED
STATES FOR AN ORDER PURSUANT
TO 18 U.S.C. § 2703(d)

(Under Seal)

The United States of America respectfully submits under seal this ex parte application for an Order pursuant to 18 U.S.C. § 2703(d). The proposed Order would require Microsoft Corporation ("Microsoft" or "the Provider"), an email service provider located in Redmond, Washington, to disclose certain records pertaining to the email address TMS.INC@HOTMAIL.COM (the "SUBJECT ACCOUNT") for the period from January 1, 2018 to the present, as described in Attachment A.

The records and other information to be disclosed are described in Part II of Attachment A to the proposed Order. The government further requests that the Court issue a non-disclosure order and seal this application and any resulting order because disclosure

1 could interfere with an ongoing criminal investigation. In support of this application, the
2 government asserts:

3 **I. Legal Background**

4 Microsoft is a provider of an electronic communications service, as defined in 18
5 U.S.C. § 2510(15). Accordingly, the government may use a court order issued under
6 § 2703(d) to require the Provider to disclose the items described in Part II of Attachment A.
7 *See* 18 U.S.C. § 2703(c)(1), (c)(2).

8 This Court has jurisdiction to issue the proposed Order because it is “a court of
9 competent jurisdiction,” as defined in 18 U.S.C. § 2711. *See* 18 U.S.C. § 2703(d).
10 Specifically, the Court is a “district court of the United States . . . that – has jurisdiction
11 over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). This investigation concerns
12 allegations of healthcare fraud by Tropicana Medical Supply, Inc., (“TMS”) a Nevada
13 corporation registered in 2003. The government’s investigation is focused on whether TMS
14 and its owners have committed and are committing healthcare fraud. *See* 18 USC § 1347
15 (Health care Fraud).

16 A court order under § 2703(d) “shall issue only if the governmental entity offers
17 specific and articulable facts showing that there are reasonable grounds to believe that the
18 contents of a wire or electronic communication, or the records or other information sought,
19 are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d). The
20 facts set forth below establish that there are reasonable grounds to believe that the
21 information described in Part II of Attachment A is relevant and material to an ongoing
22 criminal investigation.

II. Conduct Under Investigation

The Department of Veterans Affairs (VA) Spina Bifida Health Care Benefits program provides monetary allowances and VA-financed health care benefits, including durable medical supplies, among other benefits, to children born to certain Korea and Vietnam veterans. M.L. is a patient suffering from spina bifida who receives benefits under the spina bifida program. M.L. suffers from incontinence and receives a prescription for durable medical equipment such as catheters, gloves, adult diapers, and wheel chairs.

Tropicana Medical Supply, Inc. ("TMS") is a durable medical supply company that provides durable medical equipment to its clients. TMS was registered as a domestic corporation in the State of Nevada in 2003. TMS bills the VA directly for the cost of the medical supplies purportedly supplied to M.L. The investigation revolves around allegations that Tropicana Medical Supply is overbilling the VA, and, as a result has obtained large sums of money from the VA to which it is not entitled. Since 2010, TMS has billed the VA more than \$6.7 million, and has been paid more than \$3.8 million, for durable medical equipment allegedly provided to M.L. For example, from April to June 2019, TMS billed the VA \$20,696.73 every two weeks for medical supplies for M.L., including 660 catheters, 300 adult disposable diapers, 300 adult protective underwear, and 40 mattress pads. The VA has determined that this is a quantity far greater than any one patient could use.

The letterhead provided by TMS in the claims submitted to the VA contains the email address TMS.INC@HOTMAIL.COM as the official email address of the business. On December 13, 2019, a representative from the VA emailed TMS at the email address TMS.INC@HOTMAIL.COM to request a copy of a prescription for the supplies provided to M.L. in order to process a submitted claim. On December 23, 2019, Thomas Jermaine,

1 Manager of Operations, responded from the TMS.INC@HOTMAIL.COM account,
2 providing the requested prescription.

3 Additionally, a review of TMS' bank records show that the primary source of income
4 appears to be the money received from the VA. Investigators have confirmed that TMS does
5 not have any Medicaid patients. Surveillance conducted on May 9, 2019 revealed no foot
6 traffic to and from the business.

7 **III. Request for Order**

8 The facts set forth above show that there are reasonable grounds to believe that the
9 records and other information described in Part II of Attachment A are relevant and
10 material to an ongoing criminal investigation. 18 U.S.C. § 2703(d). The records sought will
11 assist the investigation in multiple ways.

12 First, the records will show whether TMS has communicated with any other entity
13 that might provide reimbursement for durable medical supplies, as well as whether TMS
14 has communicated with any medical professionals or patients. The records will also
15 potentially reveal communication to or from suppliers of durable medical equipment,
16 which will further the investigation by allowing the Government to, in turn, seek records
17 from those suppliers to determine the quantity of supplies being purchased by TMS and
18 whether those quantities are consistent with the amounts being billed to the VA.

19 The proposed Order does not seek the content of e-mails, only non-content
20 information such as dates and times emails were sent and to whom. Accordingly, the
21 government requests that the Provider be directed to produce the items described in Part II
22 of Attachment A to the proposed Order.

1 The government further requests that the Order require the Provider not to notify
2 any person, including the subscribers or customers of the accounts listed in Part I of
3 Attachment A, of the existence of the Order for a period of 120 days, beginning on the date
4 the Order is entered. *See* 18 U.S.C. § 2705(b). This Court has authority under 18 U.S.C. §
5 2705(b) to issue “an order commanding a provider of electronic communications service or
6 remote computing service to whom a warrant, subpoena, or court order is directed, for
7 such period as the court deems appropriate, not to notify any other person of the existence
8 of the warrant, subpoena, or court order.” *Id.* In this case, such an order would be
9 appropriate because the requested Order relates to an ongoing criminal investigation that is
10 neither public nor known to all of the targets of the investigation, and disclosure may alert
11 the targets to the ongoing investigation. Specifically, there is reason to believe that
12 notification of the existence of the requested Order will seriously jeopardize the
13 investigation, including by giving targets an opportunity to flee from prosecution, destroy
14 or tamper with evidence, change patterns of behavior, or notify confederates. *See* 18 U.S.C.
15 § 2705(b)(2), (3), (5). Some of the evidence in this investigation is stored electronically. If
16 alerted to the investigation, the owners and employees of TMS could destroy that evidence,
17 including information saved to their personal computers.

18 ///

1 The government further requests that this application and any resulting order be
2 sealed until further order of the Court. As explained above, these documents discuss an
3 ongoing criminal investigation that is neither public nor known to all of the targets of the
4 investigation. Accordingly, there is good cause to seal these documents because their
5 premature disclosure may seriously jeopardize that investigation.

6 Respectfully submitted this 10th day of January, 2020.

7
8 NICHOLAS A. TRUTANICH
United States Attorney

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10 JAMIE MICKELSON
Assistant United States Attorney
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FILED

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U.S. MAGISTRATE JUDGE

Case No. 2:20-mj-00014-DJA

BY

ORDER

(Under Seal)

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2703(d)

The United States has submitted an application pursuant to 18 U.S.C. § 2703(d), requesting that the Court issue an Order requiring Microsoft Corporation, an electronic service provider located in Richmond, Washington, to disclose the records and other information described in Attachment A to this Order.

The Court finds that the United States has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

The Court determines that there is reason to believe that notification of the existence of this Order will seriously jeopardize the ongoing investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, or notify confederates. *See* 18 U.S.C. § 2705(b)(2), (3), (5).

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2703(d), that Microsoft Corporation shall, within ten days of the date of this Order, disclose to the United States the records and other information described in Attachment A to this Order;

IT IS FURTHER ORDERED under 18 U.S.C. § 2705(b) that Microsoft Corporation shall not disclose the existence of the application of the United States, or the existence of this Order of the Court, to the subscriber(s) of the account listed in Attachment A or to any

1 other person for 120 days from the date of this Order, unless and until otherwise authorized
2 to do so by the Court, except that Microsoft Corporation may disclose this Order to its
3 attorney for the purpose of receiving legal advice.

4 IT IS FURTHER ORDERED that the application and this Order are sealed until
5 otherwise ordered by the Court.

DANIEL J. ALBREGTS

HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge

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8 1/10/2020
Date

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11 I hereby attest and certify on 1/10/2020
that the foregoing document is a full true and correct
copy of the original on file in my office, and in my legal
custody.

DANIEL J. ALBREGTS
U.S. MAGISTRATE JUDGE
DISTRICT OF NEVADA

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14 By Le

☒ Judicial Assistant
☐ Law Clerk

ATTACHMENT A

I. The Accounts

The Order applies to certain records and information associated with the e-mail address: TMS.INC@hotmail.com

II. Records and Other Information to Be Disclosed

Microsoft Corporation is required to disclose the following records and other information, if available, to the United States for each account or identifier listed in Part I of this Attachment ("Account").

A. The following information about the customers or subscribers of the Account:

1. Description of services and dates of service;
2. Names (including subscriber names, user names, and screen names);
3. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses).
4. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol ("IP") addresses) associated with those sessions;
5. Length of service (including start date) and types of service utilized;
6. Other subscriber numbers or identities (including the registration Internet Protocol ("IP") address);
7. Means and source of payment for such service (including any credit card or bank account number) and billing records.

B. For the period from January 1, 2018 to the present, all records and other information (not including the contents of communications) relating to the Account, including:

Information about each communication sent or received by the Account, including the date and time of the communication, the method of communication, and the source and destination of the communication (such as source and destination e-mail addresses, IP addresses, and telephone numbers).